



House of Representatives

General Assembly

File No. 123

February Session, 2018

Substitute House Bill No. 5328

House of Representatives, March 29, 2018

The Committee on Children reported through REP. URBAN of the 43rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING THE ADMISSIBILITY OF ADMISSIONS,
CONFESSIONS AND STATEMENTS BY CHILDREN UNDER THE AGE
OF EIGHTEEN.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-137 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2018*):

3 (a) Any admission, confession or statement, written or oral, made by
4 a child under the age of [sixteen] eighteen to a police officer or Juvenile
5 Court official shall be inadmissible in any proceeding concerning the
6 alleged delinquency of the child making such admission, confession or
7 statement unless made by such child in the presence of the child's
8 parent or parents or guardian [and] or after the parent or parents or
9 guardian and child have been advised (1) of the child's right to retain
10 counsel, or if unable to afford counsel, to have counsel appointed on
11 the child's behalf, (2) of the child's right to refuse to make any
12 statements, and (3) that any statements the child makes may be
13 introduced into evidence against the child.

14 [(b) Any admission, confession or statement, written or oral, made
15 by a child sixteen or seventeen years of age to a police officer or
16 Juvenile Court official, except an admission, confession or statement,
17 written or oral, made by a child sixteen or seventeen years of age to a
18 police officer in connection with a case transferred to the Juvenile
19 Court from the youthful offender docket, regular criminal docket of
20 the Superior Court or any docket for the presentment of defendants in
21 motor vehicle matters, shall be inadmissible in any proceeding
22 concerning the alleged delinquency of the child making such
23 admission, confession or statement, unless (1) the police or Juvenile
24 Court official has made reasonable efforts to contact a parent or
25 guardian of the child, and (2) such child has been advised that (A) the
26 child has the right to contact a parent or guardian and to have a parent
27 or guardian present during any interview, (B) the child has the right to
28 retain counsel or, if unable to afford counsel, to have counsel
29 appointed on behalf of the child, (C) the child has the right to refuse to
30 make any statement, and (D) any statement the child makes may be
31 introduced into evidence against the child.

32 (c) The admissibility of any admission, confession or statement,
33 written or oral, made by a child sixteen or seventeen years of age to a
34 police officer or Juvenile Court official, except an admission,
35 confession or statement, written or oral, made by a child sixteen or
36 seventeen years of age to a police officer in connection with a case
37 transferred to the Juvenile Court from the youthful offender docket,
38 regular criminal docket of the Superior Court or any docket for the
39 presentment of defendants in motor vehicle matters, shall be
40 determined by considering the totality of the circumstances at the time
41 of the making of such admission, confession or statement. When
42 determining the admissibility of such admission, confession or
43 statement, the court shall consider (1) the age, experience, education,
44 background and intelligence of the child, (2) the capacity of the child to
45 understand the advice concerning rights and warnings required under
46 subdivision (2) of subsection (b) of this section, the nature of the
47 privilege against self-incrimination under the United States and
48 Connecticut Constitutions, and the consequences of waiving such

49 rights and privilege, (3) the opportunity the child had to speak with a
50 parent, guardian or some other suitable individual prior to or while
51 making such admission, confession or statement, and (4) the
52 circumstances surrounding the making of the admission, confession or
53 statement, including, but not limited to, (A) when and where the
54 admission, confession or statement was made, (B) the reasonableness
55 of proceeding, or the need to proceed, without a parent or guardian
56 present, and (C) the reasonableness of efforts by the police or Juvenile
57 Court official to attempt to contact a parent or guardian.]

58 [(d)] (b) Any confession, admission or statement, written or oral,
59 made by the parent or parents or guardian of the child or youth after
60 the filing of a petition alleging such child or youth to be neglected,
61 uncared for or abused shall be inadmissible in any proceeding held
62 upon such petition against the person making such admission or
63 statement unless such person shall have been advised of the person's
64 right to retain counsel, and that if the person is unable to afford
65 counsel, counsel will be appointed to represent the person, that the
66 person has a right to refuse to make any statement and that any
67 statements the person makes may be introduced in evidence against
68 the person, except that any statement made by the mother of any child
69 or youth, upon inquiry by the court and under oath if necessary, as to
70 the identity of any person who might be the father of the child or
71 youth shall not be inadmissible if the mother was not so advised.

This act shall take effect as follows and shall amend the following sections:

Section 1	July 1, 2018	46b-137
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KID *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes a procedural change to the rules of admission, confessions, and statements and does not result in a fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sHB 5328*****AN ACT CONCERNING THE ADMISSIBILITY OF ADMISSIONS, CONFESSIONS AND STATEMENTS BY CHILDREN UNDER THE AGE OF EIGHTEEN.*****SUMMARY**

This bill (1) narrows the circumstances in which the admission, confession, or statement of a child under age 16 to a police officer or juvenile court official is inadmissible in a delinquency proceeding and (2) broadens the inadmissibility criteria for such admissions, confessions, or statements made by a 16- or 17-year-old.

Under the bill, a written or oral admission, confession, or statement a child under age 18 makes to a police officer or juvenile court official is admissible in juvenile court if (1) given in the presence of his or her parents or guardian or (2) the parents or guardian and child have been advised that (a) the child has the right to an attorney and to remain silent and (b) any statement he or she makes may be introduced as evidence against him or her. Under current law, such an admission, confession, or statement of a child under age 16 is only admissible if one or both of the child's parents or the child's guardian was present and those present were advised of the above rights.

Currently, with some exceptions (see below), a 16- or 17-year-old's statement, admission, or confession to a police officer or juvenile court official is admissible if (1) the officer or official made reasonable efforts to contact the child's parent or guardian and (2) the child was advised of the above rights and that he or she has the right to contact a parent or guardian and have the parent or guardian present during any interview. The bill eliminates these provisions and a provision that requires the court to determine admissibility in such circumstances based on the totality of the circumstances at the time the child made

the statement, admission, or confession.

Current law also exempts from the above-described admissibility standards a 16- or 17-year old's statement, admission, or confession to a police officer or juvenile court official in connection with a case transferred to the juvenile court docket from the youthful offender, adult criminal, or motor vehicle docket. (Thus, such statements are generally admissible under current law.) The bill eliminates these provisions and, in doing so, also eliminates the distinction between how these statements, admissions, or confessions are handled if the case originates in juvenile court as opposed to being transferred to juvenile court from another docket.

EFFECTIVE DATE: July 1, 2018

COMMITTEE ACTION

Committee on Children

Joint Favorable Substitute

Yea 10 Nay 3 (03/15/2018)